



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2014 REGULAR SESSION

HOUSE BILL NO. 192

FRIDAY, JANUARY 31, 2014

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE March 19, 2014
3:00 p.m.
ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Mary Sue Kehm

1 AN ACT relating to special purpose governmental entities and declaring an
2 emergency.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔Section 1. KRS 65A.010 is amended to read as follows:

5 As used in this chapter:

6 (1) "County" means any county, consolidated local government, urban-county
7 government, unified local government, or charter county;

8 (2) "DLG" means the Department for Local Government established by KRS
9 147A.002;

10 (3) "Establishing entity" means the city or county, or any combination of cities and
11 counties, that established a special purpose governmental entity and that has not
12 subsequently withdrawn its affiliation with the special purpose governmental entity
13 by ordinance or other official action;

14 (4) *"Federally regulated municipal utility" means a municipal utility governed by*
15 *the provisions of KRS 96.550 to 96.901, that maintains a wholesale power*
16 *contract with a federal agency that also serves as its regulatory authority;*

17 (5) (a) "Fee" means any user charge, ~~levy~~[rental fee], assessment, fee, schedule of
18 rates, or tax, other than an ad valorem tax, imposed by a special purpose
19 governmental entity.

20 (b) "Fee" shall not include *the following charges imposed by special purpose*
21 *governmental entities that provide utility services:*

22 1. Any fuel cost adjustment that is:

23 a.[1]. Made pursuant to an agreement with a power supplier;

24 b.[2]. Amended by the power supplier based on the variable cost of fuel;

25 and

26 c.[3-] Passed through to the consumer by the utility pursuant to the
27 agreement between the utility and the power supplier;

1 2. Any power or energy cost adjustment implemented pursuant to a duly-
 2 adopted base rate that provides for the periodic adjustment of a
 3 component of the rate, including any fuel costs or transmission costs,
 4 in accordance with the formula or conditions set forth in the base
 5 rate; or

6 3. Any environmental control cost adjustments or surcharges
 7 implemented pursuant to a duly-adopted base rate that provides for the
 8 periodic adjustment of a component of the rate in accordance with a
 9 formula or conditions set forth in the base rate;

10 ~~(6)~~~~(5)}~~ (a) "Private entity" means any entity whose sole source of public funds is
 11 from payments pursuant to a contract with a city, county, or special purpose
 12 governmental entity, including funds received as a grant or as a result of a
 13 competitively bid procurement process.

14 (b) "Private entity" does not include any entity:
 15 1. Created by a city, county, or combination of cities and counties to
 16 perform one (1) or more of the types of public services listed in
 17 subsection ~~(9)~~~~(8)}~~(c) of this section; or
 18 2. Governed by a board, council, commission, committee, authority, or
 19 corporation whose members are appointed by the chief executive or
 20 governing body of a city, county, or combination of cities and counties;

21 ~~(7)~~~~(6)}~~ "Public funds" means any funds derived from the levy of a tax, fee,
 22 assessment, or charge, or the issuance of bonds by the state or a city, county, or
 23 special purpose governmental entity;

24 ~~(8)~~~~(7)}~~ "Registry" means the online central registry and reporting portal established
 25 pursuant to KRS 65A.020; and

26 ~~(9)~~~~(8)}~~ (a) "Special purpose governmental entity" or "entity" means any agency,
 27 authority, or entity created or authorized by statute which:

- 1 1. Exercises less than statewide jurisdiction;
- 2 2. Exists for the purpose of providing one (1) or a limited number of
- 3 services or functions;
- 4 3. Is governed by a board, council, commission, committee, authority, or
- 5 corporation with policy-making authority that is separate from the state
- 6 and the governing body of the city, county, or cities and counties in
- 7 which it operates; and
- 8 4. a. Has the independent authority to generate public funds; or
- 9 b. May receive and expend public funds, grants, awards, or
- 10 appropriations from the state, from any agency, or authority of the
- 11 state, from a city or county, or from any other special purpose
- 12 governmental entity.
- 13 (b) "Special purpose governmental entity" shall include entities meeting the
- 14 requirements established by paragraph (a) of this subsection, whether the
- 15 entity is formed as a nonprofit corporation under KRS Chapter 273, pursuant
- 16 to an interlocal cooperation agreement under KRS 65.210 to 65.300, or
- 17 pursuant to any other provision of the Kentucky Revised Statutes.
- 18 (c) Examples of the types of public services that may be provided by special
- 19 purpose governmental entities include but are not limited to the following:
- 20 1. Ambulance, emergency, and fire protection services;
- 21 2. Flood control, drainage, levee, water, water conservation, watershed,
- 22 and soil conservation services;
- 23 3. Area planning, management, community improvement, and community
- 24 development services;
- 25 4. Library services;
- 26 5. Public health, public mental health, and public hospital services;
- 27 6. Riverport and airport services;

- 1 7. Sanitation, sewer, waste management, and solid waste services;
- 2 8. Industrial and economic development;
- 3 9. Parks and recreation services;
- 4 10. Construction, maintenance, or operation of roads and bridges;
- 5 11. Mass transit services;
- 6 12. Pollution control;
- 7 13. Construction or provision of public housing;
- 8 14. Tourism and convention services; and
- 9 15. Agricultural extension services.
- 10 (d) "Special purpose governmental entity" shall not include:
 - 11 1. Cities;
 - 12 2. Counties;
 - 13 3. School districts;
 - 14 4. Private entities;
 - 15 5. Any incorporated entity that:
 - 16 a. Provides utility services;
 - 17 b. Is member-owned; and
 - 18 c. Has a governing body whose voting members are all elected by the
 - 19 membership of the entity; or
 - 20 6. Any entity whose budget and financial information are integrated with
 - 21 and included as a part of the budget and financial reporting of the city,
 - 22 county, or cities and counties in which it operates.

23 ➔Section 2. KRS 65A.020 is amended to read as follows:

24 (1) The DLG shall:

- 25 (a) On or before March 1, 2014, make the necessary reporting and certification
- 26 forms, online reporting portal, and online central registry available for
- 27 reporting by special purpose governmental entities. The portal and registry

1 shall serve as a unified location for the reporting of and access to
 2 administrative and financial information by special purpose governmental
 3 entities; and

4 (b) On or before October 1, 2014, make available online public access to
 5 administrative and financial information reported by special purpose
 6 governmental entities.

7 (2) (a) For each fiscal period beginning on or after July 1, 2014, all special purpose
 8 governmental entities shall annually submit to the DLG the information
 9 required by this section. The information shall be submitted in accordance
 10 with this section, at the time, and in the form and format required by the DLG.
 11 The information submitted shall include at a minimum the following:

12 1. Administrative information:

- 13 a. The name, address, and, if applicable, the term and appointing
 14 authority for each board member of the governing body of the
 15 entity;
- 16 b. The fiscal year of the entity;
- 17 c. The Kentucky Revised Statute, and, if applicable, the local
 18 government ordinance and interlocal agreement under which the
 19 entity was established, the date of establishment, the establishing
 20 entity, and the statute or statutes, local government ordinance, or
 21 interlocal agreement under which the entity operates, if different
 22 from the statute or statutes, ordinance or agreement under which
 23 it was established;
- 24 d. The mailing address and telephone number and, if applicable, the
 25 Web site uniform resource locator (URL) of the entity;
- 26 e. The operational boundaries and service area of the entity and the
 27 services provided by the entity;

f. i. A listing of all the most significant taxes or fees ~~or charges~~ imposed and collected by the entity, including the rates or amounts charged for the reporting period and the statutory or other source of authority for the levy of the tax or fee ~~or charge~~.

ii. As used in this subdivision, "most significant taxes or fees" means the five (5) taxes or fees levied by the entity that produce the most tax and fee revenue for the entity, provided that if the top five (5) revenue-producing taxes and fees do not produce at least eighty-five percent (85%) of all tax and fee revenues received by the entity, additional taxes and fees shall be listed until the taxes and fees listed produce at least eighty-five percent (85%) of all tax and fee revenues of the entity. If an entity levies fewer than five (5) taxes and fees, the entity shall list all taxes and fees levied;

g. The primary contact for the entity for purposes of communication from the DLG;

h. The code of ethics that applies to the entity, and whether the entity has adopted additional ethics provisions;

i. A listing of all federal, state, and local governmental entities that have oversight authority over the special purpose governmental entity or to which the special purpose governmental entity submits reports, data, or information; and

j. Any other related administrative information required by the DLG; and

2. Financial information:

a. i. The most recent adopted budget of the entity for the

upcoming fiscal year;

ii.[b.] After the close of each fiscal year, a comparison of the budget to actual revenues and expenditures for each fiscal year, including any amendments made throughout the fiscal year to the budget originally submitted;

iii.[c.] Completed audits or attestation engagements as provided in KRS 65A.030; and

iv.[d.] Other financial oversight reports or information required by the DLG.

b. In lieu of the submissions required by subdivision a.i., ii., and iv. of this subparagraph:

i. A federally regulated municipal utility shall submit, after the close of each fiscal year, the monthly balance, revenue, and expense report required by the federal regulator, which constitutes year-end data; and

ii. A public utility established pursuant to KRS 96.740 that is not a federally regulated municipal utility shall submit after the close of each fiscal year a report that includes the same information, in the same format as is required for federally regulated municipal utilities under subpart i. of this subdivision.

- (b) The provisions of KRS 65A.040 shall apply when a special purpose governmental entity fails to submit the information required by this section in a timely manner, or submits information that does not comply with the requirements and standards established by this section and the DLG. To facilitate the enforcement of these provisions, the DLG shall establish and maintain an online list of due dates for the filing of reports, audit

1 certifications, and information for each special purpose governmental entity.

2 (c) The provisions of this subsection shall be in addition to, and shall not supplant
3 or replace any reporting or filing requirements established by other provisions
4 of the Kentucky Revised Statutes.

5 (3) (a) The DLG shall, by administrative regulation adopted pursuant to KRS Chapter
6 13A, develop standard forms, protocols, timeframes, and due dates for the
7 submission of information by special purpose governmental entities. All
8 information shall be submitted electronically; however, the DLG may allow
9 submission by alternative means, with the understanding that the DLG shall
10 be responsible for converting the information to a format that will make it
11 accessible through the registry.

12 (b) In an effort to reduce duplicative submissions to different governmental
13 entities and agencies, during the development of the forms, protocols,
14 timeframes, and due dates, the DLG shall consult with other governmental
15 entities and agencies that may use the information submitted by special
16 purpose governmental entities, and may include the information those
17 agencies and entities need to the extent possible.

18 (c) As an alternative to completing and submitting any standard form
19 developed by the DLG for the reporting of financial information, federally
20 regulated municipal utilities and public utilities established pursuant to
21 KRS 96.740 that are not federally regulated municipal utilities may elect to
22 satisfy the reporting requirements established by subsection (2)(a)2. of this
23 section for the public power components of their operations by reporting the
24 financial information related to their electric system accounts in
25 accordance with the Federal Energy Regulatory Commission uniform
26 system of accounts.

27 (4) (a) Beginning October 1, 2014, all information submitted by special purpose

1 governmental entities under this section shall be publicly available through the
2 registry. The registry shall be updated at least monthly, but may be updated
3 more frequently at the discretion of the DLG. The registry shall include a
4 notation indicating the date of the most recent update.

5 (b) The registry shall be in a searchable format and shall, at a minimum, allow a
6 search by county, by special purpose governmental entity name, and by type of
7 entity.

8 (c) To the extent possible, the registry shall be linked to or accessed through the
9 Web site established pursuant to KRS 42.032 to provide public access to
10 expenditure records of the executive branch of state government.

11 (5) (a) To offset the costs incurred by the DLG in maintaining and administering the
12 registry, the costs incurred in providing education for the governing bodies
13 and employees of special purpose governmental entities as required by KRS
14 65A.060, and the costs incurred by the DLG and the Auditor of Public
15 Accounts in responding to and acting upon noncompliant special purpose
16 governmental entities under KRS 65A.040, excluding costs associated with
17 conducting audits or special examinations, each special purpose governmental
18 entity shall pay a registration fee to the DLG on an annual basis at the time of
19 registration under this section.

20 (b) The initial annual fee shall be as follows:

- 21 1. For special purpose governmental entities with annual revenue from all
22 sources of less than one hundred thousand dollars (\$100,000), twenty-
23 five dollars (\$25);
- 24 2. For special purpose governmental entities with annual revenues from all
25 sources of at least one hundred thousand dollars (\$100,000) but less than
26 five hundred thousand dollars (\$500,000), two hundred fifty dollars
27 (\$250); and

1 3. For special purpose governmental entities with annual revenues of five
2 hundred thousand dollars (\$500,000) or greater, five hundred dollars
3 (\$500).

4 (c) If the costs of administering and maintaining the registry, providing education,
5 and enforcing compliance change over time, the fee and tiered structure
6 established by paragraph (b) of this subsection may be adjusted one (1) time
7 by the DLG through the promulgation of an administrative regulation under
8 KRS Chapter 13A. The rate, if adjusted, shall be set at a level no greater than
9 a level that is expected to generate sufficient revenue to offset the actual cost
10 of maintaining and administering the registry, providing education for the
11 governing bodies and employees of special purpose governmental entities, and
12 enforcing compliance.

13 (d) The portion of the registration fee attributable to expenses incurred by the
14 Auditor of Public Accounts for duties and services other than conducting
15 audits or special examinations shall be collected by the DLG and transferred
16 to the Auditor of Public Accounts on a quarterly basis. Prior to the transfer of
17 funds, the Auditor of Public Accounts shall submit an invoice detailing the
18 actual costs incurred, which shall be the amount transferred; however, the
19 amount transferred to the Auditor of Public Accounts under the initial fee
20 established by paragraph (b) of this section shall not exceed the annual
21 amount agreed to between the DLG and the Auditor of Public Accounts.

22 (6) By October 1, 2014, and on or before each October 1 thereafter, the DLG shall file
23 an annual report with the Legislative Research Commission detailing the
24 compliance of special purpose governmental entities with the provisions of KRS
25 65A.010 to 65A.090. The Legislative Research Commission shall refer the report to
26 the Interim Joint Committee on Local Government for review.

27 ➔Section 3. KRS 65A.030 is amended to read as follows:

1 (1) For fiscal periods beginning on or after July 1, 2014, requirements relating to audits
2 and financial statements of special purpose governmental entities are as follows:

3 (a) Every special purpose governmental entity with the higher of annual receipts
4 from all sources or annual expenditures of less than one hundred thousand
5 dollars (\$100,000) shall:

- 6 1. Annually prepare a financial statement; and
- 7 2. Once every four (4) years, contract for the application of an attestation
8 engagement as determined by the DLG, as provided in subsection (2) of
9 this section;

10 (b) Every special purpose governmental entity with the higher of annual receipts
11 from all sources or annual expenditures equal to or greater than one hundred
12 thousand dollars (\$100,000) but less than five hundred thousand dollars
13 (\$500,000) shall:

- 14 1. Annually prepare a financial statement; and
- 15 2. Once every four (4) years, contract for the provision of an independent
16 audit as provided in subsection (2) of this section; and

17 (c) Every special purpose governmental entity with the higher of annual receipts
18 from all sources or annual expenditures equal to or greater than five hundred
19 thousand dollars (\$500,000) shall:

- 20 1. Annually prepare a financial statement; and
- 21 2. Be audited annually as provided in subsection (2) of this section.

22 (2) (a) To provide for the performance of an audit or attestation engagement as
23 provided in subsection (1)(a) to (c) of this section, the governing body of a
24 special purpose governmental entity shall employ an independent certified
25 public accountant or contract with the Auditor of Public Accounts to conduct
26 the audit or attestation engagement.

27 (b) The audit or attestation engagement shall be completed no later than twelve

(12) months following the close of the fiscal year subject to the audit or the attestation engagement.

(c) 1. The special purpose governmental entity shall submit for publication on the registry the audit or attestation engagement, in the form and format required by the DLG.

2. A federally regulated municipal utility may comply with the requirements of this section for the public power component of its operations by submitting an audit that conforms to the requirements imposed by the federal agency with which it maintains a wholesale power contract.

3. A public utility established pursuant to KRS 96.740 that is not a federally regulated municipal utility may comply with the requirements of this section for the public power component of its operations by submitting a copy of its annual audit performed under Section 6 of this Act.

(d) 1. The audit or attestation engagement shall conform to:

a.[1.] Generally accepted governmental auditing or attestation standards, which means those standards for audits or attestations of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States;

b.[2.] Generally accepted auditing or attestation standards, which means those standards for all audits or attestations promulgated by the American Institute of Certified Public Accountants; and

c.[3.] Additional procedures and reporting requirements as may be required by the Auditor of Public Accounts.

2. Rather than meeting the standards established by subparagraph 1. of this paragraph, the audit submitted by a federally regulated municipal

utility or a public utility established pursuant to KRS 96.740 that is not
a federally regulated municipal utility with regard to the public power
component of the utility's operations shall conform to KRS 96.840 and
the financial standards of the Federal Energy Regulatory Commission
uniform system of accounts.

- (e) Upon request, the Auditor of Public Accounts may review the final report and all related work papers and documents of the independent certified public accountant relating to the audit or attestation engagement.
 - (f) If a special purpose governmental entity is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the special purpose governmental entity shall comply with the provisions of that law, and shall comply with the requirements of paragraph (c) of this subsection.
 - (g) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, a unit of government furnishing funds directly to a special purpose governmental entity may require additional audits at the expense of the unit of government furnishing the funds.
 - (h) All audit reports, attestation engagement reports, and financial statements of special purpose governmental entities shall be public records.
- (3) The DLG shall determine which procedures conducted under attestation standards will apply to special purpose governmental entities meeting the conditions established by subsection (1)(a) of this section. The DLG may determine that additional procedures be conducted under attestation standards for specific categories of special purpose governmental entities or for specific special purpose governmental entities, as needed, to obtain the oversight and information deemed necessary by the DLG.
- (4) Based on the information submitted by special purpose governmental entities under

KRS 65A.020 and 65A.090, the DLG shall determine when each special purpose governmental entity was last audited, and shall notify the special purpose governmental entity of when each audit or attestation engagement is due under the new standards and requirements of this section.

- (5) The DLG may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.

➔Section 4. KRS 65A.080 is amended to read as follows:

- (1) The governing body of each special purpose governmental entity shall annually adopt a budget conforming with the requirements established under KRS 65A.020 prior to the start of the fiscal year to which the budget applies. The adopted budget may be amended by the governing body of the special purpose governmental entity throughout the fiscal year using the same process that was used for adoption of the original budget. No moneys shall be expended from any source except as provided in the originally adopted or subsequently amended budget.

- (2) In lieu of the publication requirements of KRS 424.220, but in compliance with other applicable provisions of KRS Chapter 424, each special purpose governmental entity shall, within sixty (60) days after the close of each fiscal year, publish the location where the adopted budget, financial statements, and most recent audit or attestation engagement reports may be examined by the public.

➔Section 5. KRS 65A.100 is amended to read as follows:

- (1) Beginning January 1, 2014, the provisions of this section shall apply to any fee or ad valorem tax levied by a special purpose governmental entity that is not otherwise required by statute or ordinance to be adopted or approved through an official act of an establishing entity.

- (2) Except as provided in subsection (4) of this section, any special purpose governmental entity that:

- (a) 1. Adopts a new fee or ad valorem tax;

1 2. Increases the rate at which an existing fee or tax, other than an ad
2 valorem tax, is imposed; or

3 3. Adopts an ad valorem tax rate;
4 shall report the fee or tax to the governing body of the establishing entity~~{city~~
5 ~~or county}~~ in which the largest number of citizens served by the special
6 purpose governmental entity reside. If the special purpose governmental entity
7 serves only the residents of a city, the notice shall be provided to the
8 governing body of that city.

9 (b) The report required by paragraph (a) of this subsection shall be for
10 informational purposes only, and the governing body shall not have the
11 authority to adjust, amend, or veto the fee or tax, provided that any other
12 provision of the Kentucky Revised Statutes that provides greater authority for
13 the governing body of a city or county over taxes, fees, or rates imposed by a
14 special purpose governmental entity shall continue to apply to those taxes,
15 fees, or rates.

16 (3) The report required by subsection (2) of this section shall be made as provided in
17 this subsection.

18 (a) Any fee or ad valorem tax that will be imposed on a compulsory basis by an
19 entity other than an entity described in paragraph (b) of this subsection
20 shall be reported by:

21 1.[(a)] Submission of written notification of the ad valorem tax or fee to
22 the governing body at least thirty (30) days before the date the ad
23 valorem tax or fee will be effective; and

24 2.[(b)] Presentation of testimony relating to the ad valorem tax or fee at an
25 open, regularly scheduled meeting of the governing body at least ten
26 (10) days prior to the date the ad valorem tax or fee will be effective.

27 (b) The annual financial report submitted by federally regulated municipal

utilities or public utilities established pursuant to KRS 96.740 that are not
federally regulated to their establishing entities pursuant to KRS 96.840
shall satisfy the reporting requirements of subsection (2) of this section.

(4) The reporting requirements established by subsection (2) of this section shall not
apply to the following:

(a) Rental fees;

(b) Fees established by contractual arrangement;

(c) Admission fees;

(d) Charges to recover costs incurred by a special purpose governmental entity
for the connection, restoration, relocation, or discontinuation of any service
requested by any person;

(e) Any penalty, interest, sanction, or other charge imposed by a special
purpose governmental entity for a failure to pay a charge or fee, or for the
violation, breach or failure to pay or perform as agreed pursuant to a
contractual agreement;

(f) Amounts charged to customers or contractual partners for nonessential
services provided on a voluntary basis;

(g) Fees or charges authorized under federal law that pursuant to federal law
may not be regulated by the Commonwealth or local governments within
the Commonwealth;

(h) Purchased water or sewage treatment adjustments, as authorized by KRS
278.015, made by a special purpose governmental entity as a direct result of
a rate increase by its wholesale water supplier or wholesale sewage
treatment provider;

(i) Any new fee or fee increase for which a special purpose governmental entity
must obtain prior approval from the Public Service Commission pursuant to
KRS Chapter 278; or

(j) Other charges or fees imposed by a special purpose governmental entity for the provision of any service that is also available on the open market.

(5) The governing body shall include notification that the ad valorem tax or fee will be presented in all public notices provided for the meeting.

(6) An establishing entity may require a more stringent reporting process than that established by subsections (1) to (3) of this section by ordinance or interlocal agreement for any special purpose governmental entity or category of special purpose governmental entities, provided that the requirements do not conflict with reporting requirements established by other provisions of the Kentucky Revised Statutes.

→ Section 6. KRS 96.840 is amended to read as follows:

(1) The board shall keep a complete and accurate record of all meetings and actions taken, and of all receipts and disbursements, and shall make reports of the same to the governing body at stated intervals, not to exceed one (1) year. Said report shall be in writing, shall be filed in open meeting of the governing body, at stated intervals, not to exceed one (1) year, and a copy shall be filed with the municipal clerk or recorder as a public record. An audit of the board's records shall be made annually by an auditor selected by the legislative body of the municipality. The expense of such an audit shall constitute an operating expense.

(2) The board shall comply with the requirements of KRS Chapter 65A.

→ Section 7. KRS 91A.360 is amended to read as follows:

(1) The commission established pursuant to KRS 91A.350(2) shall be composed of seven (7) members to be appointed, in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed, jointly, by the chief executive officers of the local governing bodies that established the commission. Members of a commission established by separate action of the

1 local governing body of a county or a city located therein shall be appointed
2 separately by the chief executive officer of the local governing body that established
3 the commission. The chief executive officer of a city shall mean the mayor and the
4 chief executive officer of a county shall mean the county judge/executive.
5 Appointments to a commission shall be made by the appropriate chief executive
6 officer or officers in the following manner:

7 (a) Two (2) commissioners shall be appointed from a list of three (3) or more
8 names submitted by the local city hotel and motel association and one (1)
9 commissioner shall be appointed from a list of three (3) or more names
10 submitted by the local county hotel and motel association, provided that if
11 only one (1) local hotel and motel association exists which covers both the
12 city and county, then three (3) commissioners shall be appointed from a list of
13 six (6) or more names submitted by it. If no formal local city or county hotel
14 and motel association is in existence upon the establishment of a commission
15 or upon the expiration of the term of a commissioner appointed pursuant to
16 this subsection, then up to three (3) commissioners shall be appointed by the
17 appropriate chief executive officer or officers from persons residing within the
18 jurisdiction of the commission and representing local hotels or motels. A local
19 city or county hotel and motel association shall not be required to be affiliated
20 with the Kentucky Hotel and Motel Association to be recognized as the
21 official local city or county hotel and motel association.

22 (b) One (1) commissioner shall be appointed from a list of three (3) or more
23 names submitted by the local restaurant association or associations. If no
24 formal local restaurant association or associations exist upon the
25 establishment of a commission or upon the expiration of the term of a
26 commissioner appointed pursuant to this subsection, then one (1)
27 commissioner shall be appointed by the appropriate chief executive officer or

officers from persons residing within the jurisdiction of the commission and representing a local restaurant. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official local restaurant association or associations.

(c) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the chamber or chambers of commerce existing within those governmental units, which by joint or separate action have established the commission. If the commission is established by joint action of a county and a city or cities, then each chamber of commerce shall submit a list of three (3) names, and the chief executive officers of the participating governmental units shall jointly appoint one (1) commission member from the aggregate list. If no local chamber of commerce is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local businesses.

(d) Two (2) commissioners shall be appointed in the following manner:

1. By the chief executive officer of the county or city, if the commission has been established by separate action of a county or city; or
2. One (1) each by the chief executive officer of the county and by the chief executive officer of the most populous city participating in the establishment of the commission, if the commission has been established by joint action of a county and a city or cities.

(2) A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) to (1)(c), shall be appointed by the appropriate chief executive officer or officers within thirty (30) days of the receipt of the required list or lists. Vacancies shall be filled in the same manner that original appointments are made.

- 1 (3) The commissioners shall be appointed for terms of three (3) years, provided, that in
 2 making the initial appointments, the appropriate chief executive officer or officers
 3 shall appoint two (2) commissioners for a term of three (3) years, two (2)
 4 commissioners for a term of two (2) years and three (3) commissioners for a term of
 5 one (1) year. There shall be no limitation on the number of terms to which a
 6 commissioner is reappointed. Subsequent appointments shall be for three (3) year
 7 terms.
- 8 (4) The commission shall elect from its membership a chairman and a treasurer, and
 9 may employ personnel and make contracts necessary to carry out the purpose of
 10 KRS 91A.350 to 91A.390. The contracts may include, but shall not be limited to,
 11 the procurement of promotional services, advertising services, and other services
 12 and materials relating to the promotion of tourist and convention business.
 13 Contracts of the type enumerated shall be made only with persons, organizations,
 14 and firms with experience and qualifications for providing promotional services and
 15 materials, such as advertising firms, chambers of commerce, publishers, and
 16 printers.
- 17 (5) The books of the commission and its account as established in KRS 91A.390(2)
 18 shall be audited as provided in Section 3 of this Act. The independent certified
 19 public accountant or Auditor of Public Accounts~~[annually by an independent~~
 20 ~~auditor who]~~ shall make a report to the commission, to the associations submitting
 21 lists of names from which commission members are selected, to the appropriate
 22 chief executive officer or officers, to the State Auditor of Public Accounts, and to
 23 the local governing body or bodies that established the commission that was
 24 audited. A copy of the audit report shall be made available by the commission to
 25 members of the public upon request and at no charge.
- 26 (6) A commissioner may be removed from office, by joint or separate action, of the
 27 appropriate chief executive officer or officers of the local governing body or bodies

1 that established the commission, as provided by KRS 65.007.

2 (7) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

3 ➔Section 8. KRS 91A.372 is amended to read as follows:

4 (1) The commission established pursuant to KRS 91A.350(2) by an urban-county
5 government shall be composed of nine (9) members appointed by the mayor of the
6 urban-county government in the following manner:

7 (a) Three (3) commissioners from a list submitted by the local hotel and motel
8 association.

9 (b) One (1) commissioner from a list submitted by the local restaurant association
10 or associations.

11 (c) One (1) commissioner from a list submitted by the local chamber of
12 commerce.

13 (d) Four (4) commissioners who shall be residents of the urban-county.

14 (2) Vacancies shall be filled in the same manner that original appointments are made.

15 (3) The commissioners shall be appointed for terms of three (3) years, provided, that in
16 making the initial appointments, the chief elective official of the urban-county shall
17 appoint three (3) commissioners for a term of three (3) years, three (3)
18 commissioners for a term of two (2) years and three (3) commissioners for a term of
19 one (1) year.

20 (4) The commission shall elect from its membership a chairman and a treasurer, and
21 may employ such personnel and make such contracts as are necessary to effectively
22 carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but
23 shall not be limited to the procurement of promotional services, advertising services
24 and other services and materials relating to the promotion of tourist and convention
25 business; provided, contracts of the type enumerated shall be made only with
26 persons, organizations, and firms with experience and qualifications for providing
27 promotional services and materials, such as event coordinators, advertising firms,

1 chambers of commerce, publishers and printers.

2 (5) The books of the commission shall be audited as provided in Section 3 of this Act.
 3 The independent certified public accountant or Auditor of Public Accounts~~[by an~~
 4 ~~independent auditor who]~~ shall make a report to the commission, to the
 5 organizations submitting names from which commission members are selected, and
 6 to the mayor of the urban-county government.

7 (6) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

8 ➔Section 9. KRS 91A.380 is amended to read as follows:

9 (1) The commission established pursuant to KRS 91A.350(3) shall be composed of six
 10 (6) members from each county to be appointed by the county judge/executive, with
 11 the approval of the fiscal court, one (1) of whom shall be a member of the General
 12 Assembly in whose district the county or part of the county is located in the
 13 following manner:

- 14 (a) One (1) commissioner from a list of at least three (3) persons submitted by the
 15 local restaurant association or associations;
- 16 (b) One (1) commissioner from a list of at least three (3) persons submitted by the
 17 local chamber of commerce;
- 18 (c) One (1) commissioner by the county judge/executive; and
- 19 (d) Two (2) commissioners from a list of at least six (6) persons submitted by the
 20 local hotel and motel association or associations.

21 (2) Vacancies shall be filled in the same manner that original appointments are made.

22 (3) The commissioners shall be appointed for terms of three (3) years, provided that in
 23 making the initial appointments, the county judge/executive shall appoint two (2)
 24 commissioners for a term of three (3) years, two (2) commissioners for a term of
 25 two (2) years, and two (2) commissioners for a term of one (1) year.

26 (4) The commission shall elect from its membership a chairman and a treasurer, and
 27 may employ such personnel and make such contracts as are necessary to effectively

1 carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but
 2 shall not be limited to the procurement of promotional services, advertising services
 3 and other services and materials relating to the promotion of tourist and convention
 4 business.

5 (5) The books of the commission and its account as established in KRS 91A.390(2)
 6 shall be audited as provided in Section 3 of this Act. The independent certified
 7 public accountant or Auditor of Public Accounts~~[by an independent auditor who]~~
 8 shall make a report to the commission, to the organizations submitting names from
 9 which commission members are selected~~[, to the State Auditor of Public Accounts],~~
 10 and to the county judge/executive of each county. A copy of the audit report shall be
 11 made available by the commission to members of the public upon request and at no
 12 charge.

13 (6) A commissioner may be removed from office as provided by KRS 65.007.

14 (7) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

15 ➔Section 10. KRS 91A.394 is amended to read as follows:

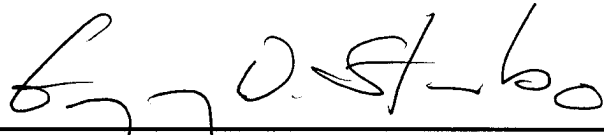
16 ~~[(1) On an annual basis, the Auditor of Public Accounts shall issue audit standards to be~~
 17 ~~followed in the audits authorized by KRS 91A.360(5) and 91A.380(5). These audit~~
 18 ~~standards shall supplement generally accepted audit standards. Upon request, the~~
 19 ~~Auditor of Public Accounts may review the final report and all related work papers~~
 20 ~~and documents of the independent certified public accountant relating to the audit~~
 21 ~~required under KRS 91A.360. Any costs associated with the review or subsequent~~
 22 ~~audit by the Auditor of Public Accounts shall be borne by the commission. If the~~
 23 ~~Auditor of Public Accounts determines that there are substantive discrepancies in~~
 24 ~~the commission's books or account, the Auditor of Public Accounts shall notify the~~
 25 ~~director of the commission, the county attorney, and the appropriate legislative body~~
 26 ~~of its findings.~~

27 ~~(2)]Any resident of the county may bring an action in the Circuit Court to enforce the~~

1 provisions of KRS 91A.350 to 91A.390. The Circuit Court shall hear the action
2 and, on a finding that the commission has violated the provisions of KRS 91A.350
3 to 91A.390, shall order the commission to comply with the provisions. The Circuit
4 Court, in its discretion, may allow the prevailing party, other than the commission,
5 court costs, to be paid from the commission's account.

6 ➔Section 11. The provisions of this Act shall apply retroactively beginning
7 January 1, 2014.

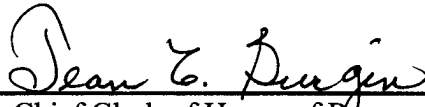
8 ➔Section 12. Whereas to prevent undue hardship to special purpose governmental
9 entities and other local governments to which special purpose governmental entities will
10 be reporting, it is necessary for the changes made in this Act to apply to reports submitted
11 and information reported pursuant to the sections that are amended prior to the normal
12 effective date, an emergency is declared to exist, and this Act takes effect upon its
13 passage and approval by the Governor or upon its otherwise becoming a law.




Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-19-14